

## Notice of Rulemaking Hearing

### Department of Mental Health and Developmental Disabilities Office of Licensure

There will be a hearing before the Tennessee Department of Mental Health and Developmental Disabilities, Office of Licensure to consider the promulgation of amended rules and repeal of rules pursuant to T.C.A. §§ 4-4-103, 4-5-202, and 204, 33-1-302, 305, and 309, 33-2-301 and 302, 33-2-404, and Executive Order 44 (February 23, 2007). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Commissioner's Large Conference Room on the Third Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 10:00 a.m. Central Daylight Time on the 14<sup>th</sup> day of August, 2008.

Individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Tennessee Department of Mental Health and Developmental Disabilities, to discuss any auxiliary aids or services needed to facilitate such participation or review. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to the scheduled meeting date or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Mental Health and Developmental Disabilities ADA Coordinator, Gwen Hamer, 5th Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37243. Ms. Hamer's telephone number is (615) 532-6510; the department's TDD is (615) 532-6612. Copies of the notice are available from the Tennessee Department of Mental Health and Developmental Disabilities in alternative format upon request.

For a copy of the entire text of this notice of rulemaking hearing contact:

Karen Edwards, Rules Coordinator, Department of Mental Health and Developmental Disabilities, 425 Fifth Avenue North, Fifth Floor, Cordell Hull Building, Nashville, TN 37243-1010, (615) 532-3648.

### Substance of Proposed Rules

#### New Rules

#### Chapter 0940-05-44

#### Minimum Program Requirements for Alcohol and Drug Residential Detoxification Services

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0940-05-44-.01 Definition.

- (1) “Alcohol and Drug Residential Detoxification Services” means intensive twenty-four (24) hour residential services for service recipients at least eighteen (18) years of age meeting the criteria of the American Society of Addiction Medicine Placement Criteria (ASAM PPC) for clinically managed detoxification (Level III.2-D) or medically monitored detoxification (Level III.7-D) to systematically reduce or eliminate the amount of a toxic agent in the body until the signs and symptoms of withdrawal are resolved. Clinically managed residential detoxification emphasizes social and peer support and relies on established clinical protocols to determine whether service recipients need a higher level of care to manage withdrawal. Medically monitored residential detoxification services use medical and nursing professionals to manage withdrawal signs and symptoms without the full resources of an acute care or psychiatric hospital. Residential detoxification services can be offered in a community setting or a specialty unit within a hospital.

0940-05-44-.02 Application of Rules.

- (1) The governing body of a facility providing residential detoxification services must comply with the following rules:
  - (a) Applicable occupancy rules found in Chapter 0940-5-4 Life Safety Licensure Rules:
    1. Rule 0940-5-4-.02 Health Care Occupancies for facilities providing services for four (4) or more service recipients who are not capable of self-preservation; or
    2. Rule 0940-5-4-.06 Residential Occupancies – Board and Care for facilities providing services to four (4) or more service recipients; or
    3. Rule 0940-5-4-.07 Residential Occupancies – One- or Two-Family Dwellings (Two or Three Clients) for facilities providing services to two (2) or three (3) service recipients;
  - (b) If services are to be provided in a facility meeting the requirements for Rule 0940-5-4-.06 Residential Occupancies – Board and Care or Rule 0940-5-4-.07 Residential Occupancies – One- or Two-Family Dwelling Occupancy and services are provided to one (1) or more mobile non-ambulatory service recipient, then Rule 0940-5-4-.09(2) Mobile Non-Ambulatory Rule;
  - (c) Adequacy of Facility Environment and Ancillary Services found in 0940-5-5;
  - (d) Minimum Program Requirements for All Facilities found in Chapter 0940-5-6;
  - (e) Minimum Program Requirements for Alcohol and Drug Residential Detoxification Services found in Chapter 0940-05-44; and
  - (f) Use of Isolation, Mechanical Restraint, and Physical Holding Restraint in Mental Health Residential Treatment Facilities found in Chapter 0940-3-9.

0940-05-44-.03 Policies and Procedures.

- (1) The facility must maintain a written policy and procedure manual which includes the following:

- (a) Intake and assessment process;
- (b) A description of the aftercare service;
- (c) Requirements that each employee or volunteer comply with procedures for detection, prevention, and reporting of communicable diseases according to procedures of the Tennessee Department of Health;
- (d) A written policy ensuring that employees and volunteers practice standard precautions for infection control, as defined by the Centers for Disease Control (CDC), that will protect the service recipient from infectious diseases;
- (e) A quality assurance procedure which assesses the quality of care at the facility. This procedure must ensure appropriate treatment has been delivered according to acceptable clinical practice;
- (f) Drug testing procedures if used by the facility;
- (g) Exclusion criteria for service recipients not appropriate for the facility's services;
- (h) Written admission protocols to screen for potentially aggressive or violent service recipients;
- (i) Policy and procedures which address the methods for managing disruptive behavior including techniques to deescalate anger and aggression;
- (j) If restrictive procedures are used to manage disruptive behaviors, the written policies and procedures governing this use must comply with the Department of Mental Health and Developmental Disabilities rules in Chapter 0940-3-9 Use of Isolation, Mechanical Restraint, and Physical Holding Restraint in Mental Health Residential Treatment Facilities;
- (k) Facilities providing either medically monitored detoxification or clinically managed detoxification with self-administered detoxification medications must have procedures for the provision of physical assessment within twenty-four (24) hours of admission to the program performed by a physician, physician assistant or nurse practitioner;
- (l) Program admission criteria related to the results of the physical assessment;
- (m) Physician-approved protocols for service recipient observation, supervision, and determination of appropriate level of care;
- (n) Procedures and criteria for more extensive medical intervention and/or transfer to a more intensive service including an acute care hospital, must minimally include the following:
  - 1. A history of severe withdrawal, multiple withdrawals, delirium tremens, or seizures;
  - 2. Sustained extremes in heart rate;
  - 3. Cardiac arrhythmia; and
  - 4. Sustained extremes in blood pressure; and

- (o) Procedures to ensure that the facility, either directly or through arrangements with other public or private non-profit entities, will make available tuberculosis (TB) services in accordance with current Tennessee TB Guidelines for Alcohol and Drug Treatment Facilities (TB Guidelines), established by the Department of Health TB Elimination Program and the Department of Mental Health and Developmental Disabilities Division of Alcohol and Drug Abuse, including:
  - 1. Counseling the service recipients about TB;
  - 2. Screening all service recipients for TB, and if applicable, testing service recipients at high risk for TB to determine whether the service recipients have been infected with TB;
  - 3. Providing for or referring the service recipients infected by TB for appropriate medical evaluation and treatment; and
  - 4. Conducting case management activities to ensure that service recipients receive such services.

0940-05-44-.04 Personnel and Staffing Requirements.

- (1) Direct services must be provided by qualified alcohol and drug abuse personnel.
- (2) All medical staff in facilities providing medically monitored detoxification and all direct service staff in facilities providing clinically managed detoxification must receive training within thirty (30) days of employment in implementing physician-approved protocols for the signs and symptoms of alcohol and other drug intoxication and withdrawal; monitoring withdrawal; assessing appropriate levels of care; supportive care; preparing service recipients for ongoing treatment; and facilitating entry into ongoing care. Training must be documented and completed before direct service staff may have unsupervised direct contact with service recipients.
- (3) Facilities providing clinically managed detoxification must provide annual training to all direct service staff on supervising the self-administration of medications.
- (4) The facility must employ or retain a physician with training or experience in addiction medicine by written agreement to serve as medical consultant to the program.
- (5) The facility must have a physician, physician assistant, or nurse practitioner available twenty-four (24) hours a day by telephone for medical evaluation and consultation.
- (6) Nursing services shall be provided in accordance with guidelines specified by the American College of Addiction Medicine Patient Placement Criteria (ASAM PPC) for clinically managed detoxification and medically monitored detoxification services.
- (7) The facility must provide at least two (2) on-duty and on-site staff members certified in cardiopulmonary resuscitation (CPR), and trained in first aid, the abdominal thrust and standard precautions for infection control as defined by the CDC.
- (8) The facility must provide annual STD/HIV education to all direct care staff.
- (9) The facility must provide direct care staff with annual training in techniques to screen for potentially aggressive or violent service recipients and training in techniques to de-escalate anger and aggression in service recipients.

- (10) For facilities serving service recipients not capable of self-preservation, the facility must maintain a direct-care awake staff-to-service recipient ratio on duty and on site of at least one (1) to four (4).
- (11) For facilities serving service recipients capable of self-preservation, the facility must maintain a direct-care awake staff-to-service recipient ratio on-duty and on-site of at least one (1) to ten (10).
- (12) The facility must follow current TB Guidelines for screening and testing employees for TB infection.
- (13) Employee records must include date and results of TB screening, and if applicable, tuberculin skin test or equivalent used, date and results of tuberculin skin test, date and results of chest x-ray, and any drug treatment for tuberculosis.
- (14) The facility must provide annual training to personnel responsible for counseling, screening, and providing case management service to service recipients to prevent the transmission of TB.

0940-05-44-.05 Service Recipient Assessment Requirements.

- (1) The facility must document that the following assessments are completed at the time of admission; re-admission assessments must document the following information from the date of last service:
  - (a) Assessment of current functioning by trained staff according to presenting problem including addiction-focused history of the presenting problem;
  - (b) An assessment of any special needs such as co-occurring psychiatric and medical conditions, physical limitations, cognitive impairments, and support system issues;
  - (c) Implementation of physician-approved protocols for service recipient observation and supervision and documentation of any concerns indicated by the protocol that need to be reviewed by a physician;
  - (d) Basic medical history information and determination of the necessity of a medical evaluation and a copy, where applicable, of the results of the medical evaluation, as deemed necessary by the program physician;
  - (e) Screening to identify service recipients who are at high risk for infection with TB according to TB Guidelines, including documentation of risk level of the service recipient, and if applicable, a tuberculin skin test or equivalent, the results of the tuberculin skin test, the date and result of a chest x-ray, and any drug treatment for TB;
  - (f) A physical examination by a physician, physician assistant or nurse practitioner within twenty-four (24) hours of admission if a facility is providing medically monitored detoxification or clinically managed detoxification with the self-administration of detoxification medications; and
  - (g) A six (6) month history prior to admission of prescribed medications, frequently used over-the-counter medications, and alcohol or other drugs including patterns of specific usage for the past thirty (30) days prior to admission.

- (2) If the facility provides medically monitored detoxification services, then the facility must document that the following additional assessments are completed at the time of admission; re-admission assessments must document the following information from the date of last service:
  - (a) A nursing assessment on admission;
  - (b) Appropriate laboratory and toxicology tests; and
  - (c) If the medically monitored detoxification services are step-down services from medically managed detoxification in an acute care hospital (ASAM Level IV-D), an evaluation within twenty-four (24) hours of admission by a physician of records of a physical examination within the preceding seven (7) days.

0940-05-44-.06 Detoxification Services Requirements.

- (1) The facility must document in the service recipient record a treatment protocol for detoxification and daily notes by qualified alcohol and drug or medical personnel that the protocol is being followed or exceptions to the protocol.
- (2) The facility providing medically monitored detoxification must make available hourly or more frequent nurse monitoring if needed.
- (3) The facility must offer daily treatment services necessary to assess needs, help the service recipient understand addiction and support the completion of the detoxification process.
- (4) The facility must document in the service recipient record that service recipients and their families or significant others are referred to the appropriate treatment resource upon completion of detoxification.

0940-05-44-.07 Individual Program Plan Requirements.

- (1) An Individual Program Plan (IPP) which meets the following requirements must be developed and documented for each service recipient:
  - (a) Developed within twenty-four (24) hours of admission;
  - (b) Includes the service recipient's name;
  - (c) Includes the date of development;
  - (d) Standardized diagnostic formulation(s) including but not limited to the current editions of the Diagnostic and Statistical Manual (DSM) and/or the International Statistical Classification of Diseases and Related Health Problems (ICD); and the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders (ASAM PPC).
  - (e) Includes treatment priorities and goals with measurable treatment objectives to, and activities designed to, meet those objectives;
  - (f) Includes discharge plans for making referrals to address a service recipient's goals and needs;
  - (g) Daily assessment of the service recipient's progress through detoxification and any treatment changes; and

- (h) Includes the signatures of appropriate staff; and includes documentation of service recipients' participation in the treatment planning process.

0940-05-44-.08 Service Recipient Record Requirements.

- (1) The individual service recipient record must include the following:
  - (a) Documentation on a medications log sheet of all medications prescribed or administered including date, type, dosage, frequency, amount, and reason;
  - (b) A list of each individual article of each service recipients personal property valued at \$100.00 or more including its disposition, if no longer in use;
  - (c) Written accounts of all monies received and disbursed on behalf of the service recipient;
  - (d) Reports of medical problems, accidents, seizures, and illnesses and treatments for such accidents, seizures, and illnesses;
  - (e) Reports of significant behavior incidents;
  - (f) Reports of any instance of physical holding, restrictive procedures, or restraint with documented justification and authorization; and
  - (g) A discharge summary which states the date of discharge, status at discharge, reasons for discharge, and referral for other services.

0940-05-44-.09 Professional Services in Residential Detoxification Treatment Facilities.

- (1) In addition to the detoxification services provided, the facility must plan for discharge to address service recipient needs as indicated in the assessment/history in the areas vocational, educational skills and academic performance; financial issues; cognitive, socio-emotional, and psychological issues; social, family, and peer interactions; physical health; legal; community living skills and housing information. Such services may be provided directly by the agency or indirectly by referral to other service providers. Referral agreements with frequently used providers must be documented. The provision of such services to individual service recipients must be documented in the service recipient record at the facility.
- (2) The facility must document either by written agreements or by program services access to an interdisciplinary team of appropriately trained clinicians (such as physicians, registered nurses, licensed practical nurses, counselors, social workers and psychologists) to assess, obtain, and interpret information regarding service recipient needs. The number and disciplines of team members must be appropriate to the range and severity of the service recipient's problem.
- (3) The facility must document, either by written agreements or by program services, the provision of twenty-four (24) hour a day, seven (7) day a week availability of immediate medical evaluation and care.

0940-05-44-.10 Service Recipient Medication Administration Requirements.

- (1) Facilities providing medically monitored detoxification services must provide a licensed nurse to oversee medication administration twenty-four (24) hours per day.



- (2) All facilities must consider the service recipient's ability and training when supervising the self-administration of medication.
- (3) All facilities must ensure that prescription medications are taken only by service recipients for whom they are prescribed, and in accordance with the directions of a physician.
- (4) Drugs must be stored in a locked container which ensures proper conditions of security and sanitation and prevents accessibility to any unauthorized person.
- (5) Discontinued and outdated drugs and containers with worn, illegible, or missing labels must be disposed.
- (6) All medication errors, drug reactions, or suspected overmedications must be reported to the practitioner who prescribed the drug.
- (7) Evidence of the current prescription of each medication taken by a service recipient must be maintained by the facility.
- (8) All direct service staff must be trained about medications used by the service recipient. This training must include information about the purpose and function of the medications, their major side effects and contraindications, and ways to recognize signs that medication is not being taken or is ineffective.
- (9) Staff must have access to medications at all times.
- (10) For any service recipient incapable of self-administration, all medications must be administered by licensed medical or licensed nursing personnel or other qualified staff under a protocol approved by medical staff. Qualified personnel under these rules means a certified or registered respiratory therapist, a radiological technologist, or certified physician assistant practicing within the scope of their professional license or certification.
- (11) Schedule II drugs must be stored within two (2) separately locked compartments at all times and be accessible only to staff in charge of administering medication.
- (12) All medications and other medical preparations intended for internal or external human use must be stored in medicine cabinets or drug rooms. Such cabinets or drug rooms must be kept securely locked when not in use and the key must be in the possession of the supervising nurse or other authorized staff. Locks in doors to medicine cabinets and drug rooms must be such that they require an action on the part of staff to lock and unlock.
- (13) Staff must document each time a service recipient self-administers medication or refuses a medication, including over-the-counter medication. This documentation must include the date, time, medication name, and dosage. This documentation must be made on the medication log sheet in the service recipient's record.

0940-05-44-.11 Recreational Activity Provisions.

- (1) The facility must provide opportunities for recreational activities appropriate to and adapted to the needs, interests, and ages of the service recipients being served.

0940-05-44-.12 Service Recipient Health, Hygiene, and Grooming Provisions.

- (1) The facility must encourage service recipients in independent exercise of health, hygiene, and grooming practices.



- (2) The facility must encourage the use of dental appliances, eyeglasses, and hearing aids, if used by service recipients.
- (3) The facility must encourage each service recipient to maintain a well-groomed and clean appearance that is age and activity appropriate and within reason of current acceptable styles of grooming, dressing, and appearance.

0940-05-44-.13 Service Recipients' Rights Provisions.

- (1) Service recipients must not be denied adequate food, treatment/rehabilitation activities, religious activities, mail or other contacts with families as punishment.
- (2) A service recipient must not be confined to his/her room or other place of isolation as punishment. This does not preclude requesting service recipients to remove themselves from potentially harmful situations in order to regain self-control.

Authority: T.C.A. §§ 4-4-103; 4-5-202; 4-5-204; 33-1-302, 33-1-305, 33-1-309; and 33-2-301; 33-2-302; 33-2-404; and Executive Order Number 44 (February 23, 2007).

Repeals

Chapter 0940-05-44 Minimum Program Requirements for Alcohol and Drug Abuse Residential Detoxification Treatment Facilities is repealed in its entirety.

Authority: T.C.A. §§ 4-4-103; 4-5-202; 4-5-204; 33-1-302, 33-1-305, 33-1-309; and 33-2-301; 33-2-302; 33-2-404; and Executive Order Number 44 (February 23, 2007).

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of June, 2008. (FS 06-29-08; DBID 866)